

OFFICIAL**BROWDY AND NEIMARK, P.L.L.C.**

ATTORNEYS AT LAW

PATENT AND TRADEMARK CAUSES

SUITE 300

624 NINTH STREET, N.W.

WASHINGTON, D.C. 20001-5303

TELEPHONE (202) 628-5197

SHERIDAN NEIMARK
ROGER L. BROWDYANNE M. KORNBAU
NORMAN J. LATKER
RONNI S. JILLIONS
DIANA MICHELLE SOBO
AOI NAWASHIROOF COUNSEL
IVER P. COOPER
JAY M. FINKELSTEIN

ALVIN BROWDY (1917-1998)

PATENT AGENT

ALLEN C. YUN, PH.D.

TELECOPIER FACSIMILE
(202) 737-3528
(202) 393-1012E-MAIL
mail@browdynemark.com**TELEFAX CONTROL SHEET****RECEIVED
CENTRAL FAX CENTER**

SENT TO: Shengjun Wang _____
Application No. 09/936,922 _____
DATE SENT: March 12, 2004 _____
SUBJECT: SHINITZKY=5 _____
No. of pages (including this cover sheet): 6 _____
FROM: Anne M. Kornbau _____

Remarks:

Examiner Wang,

Attached is the amendment filed on February 18, 2004. I look forward to hearing from you.

Sincerely,

Anne M. Kornbau

CONFIDENTIALITY NOTE

This confidential facsimile message is intended only for the individual entity named above, and may contain information that is privileged and exempt from disclosure under applicable law. If you, the reader of this message, are not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that you should not copy this facsimile or distribute it to anyone other than the intended recipient. In addition, if you have received this telecopy in error, please immediately notify us by telephone or telefax and return the original message to us at the address above via the United States Postal Service. Finally, if it would not inconvenience you, we would appreciate it if you would first fax this message to the intended recipient. Thank you.

If this transmission is not well received, please advise us at our telecopier no. 202-737-3528 or by e-mail at mail@browdynemark.com, or call our voice number 202-628-5197

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Meir SHINITZKY

Art Unit: 1617

Application No.: 09/936,922

Confirmation No.: 3023

Examiner: Shengjun Wang

Filed: October 31, 2001

Washington, D.C.

For: PHARMACEUTICAL COMPOSITIONS COMPRISING...

Atty.'s Docket: SHINITZKY=S

Date: February 18, 2004

Customer Window, Mail Stop AF
THE COMMISSIONER OF PATENTS AND TRADEMARKS
Arlington, VA 22202

Sir:

Transmitted herewith is a [XX] REPLY: REQUEST FOR RECONSIDERATION in the above-identified application.

[] Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted
 [] A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
 No additional fee is required.

The fee has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)
CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL •	MINUS ** 20	0
INDEP. •	MINUS *** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM		

ADDITIONAL FEE TOTAL

SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
x 9	\$		x 18	\$
x 43	\$		x 86	\$
+ 145	\$		+ 290	\$
	\$	OR		\$
		TOTAL		\$

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

Conditional Petition for Extension of Time
 If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.138(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

[] First - \$ 55.00
 [] Second - \$ 210.00
 [] Third - \$ 475.00
 [] Fourth - \$ 740.00

Month After Time Period Set

[] Less fees (\$ _____) already paid for _____ month(s) extension of time on _____

Other Than Small Entity

Response Filed Within

[] First - \$ 110.00
 [] Second - \$ 420.00
 [] Third - \$ 950.00
 [] Fourth - \$ 1,480.00

Month After Time Period Set

[] Please charge my Deposit Account No. 02-4035 in the amount of \$ _____

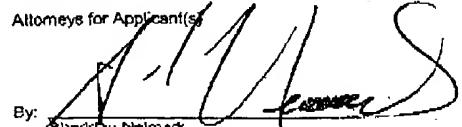
[] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ _____.

[] A check in the amount of \$ _____ is attached (check no. _____).

The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK

Attorneys for Applicant(s)

By: 
 Sheridan Neimark
 Registration No. 20,520

Facsimile: (202) 737-3528
 Telephone: (202) 628-5197

RECEIVED
CENTRAL FAX CENTER

MAR 12 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICIAL

ATTY.'S DOCKET: SHINITZKY-5

In re Application of:) Art Unit: 1617
)
Meir SHINITZKY) Examiner: Shengjun Wang
)
Appln. No.: 09/936,922) Washington, D.C.
)
Date Filed: October 31, 2001) Confirmation No. 3023
)
For: PHARMACEUTICAL) February 18, 2004
COMPOSITIONS COMPRISING...)

REPLY: REQUEST FOR RECONSIDERATION

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop AF
Crystal Plaza Two, Lobby, Room 1B03
Honorable Commissioner for Patents
Arlington, Virginia 22202

Sir:

The Final Office Action of November 19, 2003, has been carefully reviewed. The claims in the application remain as claims 1-8, 17-26 and 37, and these claims define patentable subject matter warranting their allowance. Accordingly, applicant respectfully requests favorable consideration and allowance, especially based on the interview of February 12, 2004.

Applicant wishes to thank Examiner Wang for the courtesies extended during the personal interview of February 12, 2004, attended by Mrs. Anne Kornbau, one of applicant's

Appn. No. 09/936,922
Amd. dated February 18, 2004
Reply to Final Office Action of November 19, 2003

attorneys. Agreement as to the allowability of applicant's claims was reached during such interview, as indicated in the PTO "Interview Summary".

The previously nonelected claims 7 and 21-24 should now be rejoined and allowed, along with the other claims. Such is respectfully requested.

Claims 1-6, 8, 17-20, 25-26 and 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al in view of Piazza et al and Kobayashi et al. This rejection is respectfully traversed.

Submitted herewith are copies of the following articles, which were discussed during the February 12 interview:

Kugel et al., *Journal of the American Chemical Society* 89:16, 1967;

Shinitzky et al., *European Journal of Biochemistry* 267:2547-2554, 2000.

As shown in the Kugel et al article, the five-membered rings are very prone to hydrolysis, while the six-membered rings are much less prone to hydrolysis. The rate of hydrolysis of the five-membered ring is 1000 times faster than hydrolysis of its corresponding open phosphodiester. The

Appln. No. 09/936,922
Amd. dated February 18, 2004
Reply to Final Office Action of November 19, 2003

hydrolysis of the six-membered ring is at about the rate of hydrolysis for the open phosphodiester.

The Shinitzky et al article show that the six-membered ring has a biological activity ten times higher than that of the five-membered ring.

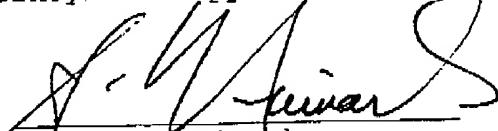
Based upon the above differences¹ between the five-membered ring and the six-membered ring, it is respectfully submitted that the six, seven, and eight membered rings, are unexpectedly different from the five-membered rings disclosed in the applied prior art.

In view of the above, it is respectfully submitted that the claims are now in condition for allowance, and favorable action thereon is earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By



Sheridan Neimark
Registration No. 20,520

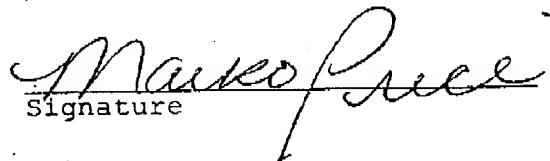
SN:jaa
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\C\cohn\shinitzky\pto\Reply 18Feb04.doc

¹ For the record, applicant also submits that the six, seven and eight membered ring compounds are structurally (i.e. *prima facie*) non-obvious from the five-membered ring compounds.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Maiko S. Price
Name


Maiko Price
Signature

March 12, 2004
Date